

NOTICE

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 93-2873

STATE OF WISCONSIN

:

IN SUPREME COURT

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Russell M. Ware,

Plaintiff-Appellant-Petitioner,

v.

Adrian P. Schoone,  
Richard A. Fortune and  
Mark J. Leuck,

Defendants-Respondents-Respondents,

Schoone, Fortune & Leuck, S.C.,

Defendant.

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**FILED**

**MAR 29, 1996**

Marilyn L. Graves  
Clerk of Supreme Court  
Madison, WI

REVIEW of a decision of the Court of Appeals. *Affirmed.*

PER CURIAM. The court is equally divided on the question of whether the unpublished decision of the court of appeals should be affirmed or reversed, Chief Justice ROLAND B. DAY, Justice JON P. WILCOX, and Justice ANN WALSH BRADLEY being of the opinion that the decision should be affirmed, and Justice SHIRLEY S. ABRAHAMSON, Justice DONALD W. STEINMETZ, and Justice JANINE P. GESKE being of the opinion that the decision should be reversed. Justice WILLIAM A. BABLITCH did not participate.

Accordingly, the decision of the court of appeals is affirmed.

**SUPREME COURT OF WISCONSIN**

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Case No.: 93-2873

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Complete Title

of Case: Russell M. Ware,  
Plaintiff-Appellant-Petitioner,  
v.  
Adrian P. Schoone, Richard A. Fortune and  
Mark J. Leuck,  
Defendants-Respondents,  
Schoone, Fortune & Leuck, S.C.,  
Defendant.

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REVIEW OF A DECISION OF THE COURT OF APPEALS  
Reported at: 191 Wis. 2d 359, 530 N.W.2d 69  
(Ct. App. 1995)  
UNPUBLISHED

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Opinion Filed: March 29, 1996  
Submitted on Briefs:  
Oral Argument: February 27, 1996

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Source of APPEAL

COURT: Circuit  
COUNTY: Racine  
JUDGE: JOHN R. RACE

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JUSTICES:

Concurred:  
Dissented:  
Not Participating: BABLITCH, J., did not participate

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ATTORNEYS: For the plaintiff-appellant-petitioner there were  
briefs by *L. William Staudenmaier, Alexander T. Pendleton and Cook  
& Franke, S.C., Milwaukee* and oral argument by *L. William  
Staudenmaier*.

For the defendants-respondents there was a brief by *Thomas M.  
Devine, David A. Wolfe and Hostak, Henzl & Bichler, S.C., Racine*  
and oral argument by *Thomas M. Devine*.